

AMENDED IN ASSEMBLY MAY 14, 2009

AMENDED IN ASSEMBLY APRIL 20, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 720

Introduced by Assembly Member Caballero

February 26, 2009

An act to amend Section 65583.1 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 720, as amended, Caballero. Land use: housing element.

The Planning and Zoning Law requires each city, county, and city and county to prepare and adopt a general plan that contains certain mandatory elements, including a housing element that analyzes existing and projected housing needs and includes a statement of goals, quantified objectives, policies, financial resources, and scheduled programs for the maintenance, preservation, improvement, and development of housing. The housing element is required to identify the existing and projected housing needs of all economic segments of the community. The Department of Housing and Community Development is authorized to allow a city, county, or city and county to substitute the provision of units for up to 25% of the community's obligation to identify adequate sites for any income category in its housing element, as specified, when the community includes in its housing element a program committing the local government to provide units in that income category within the city, county, or city and county that will be made available through the provision of committed assistance during the planning period covered by the housing element

to low- and very low income households at affordable housing costs or affordable rents, as defined. Units that are to be substantially rehabilitated with committed assistance from the city, county, or city and county and constitute a net increase in the community's housing stock may be included in ~~the aforementioned~~ *this* housing element program, if the units meet certain criteria. Existing law defines various terms for use of these provisions.

This bill would authorize a city, county, or city and county to include weatherization and energy efficiency improvements as part of its efforts to substantially rehabilitate a unit, and modify the definition of "committed assistance" for purposes of specified provisions.

Existing law states that if a local government opts to provide committed assistance, as defined, it must make a written report to the legislative body and the department on July 1 of the 3rd year of the housing element planning period. This report must identify the specific units to which committed assistance has been provided. If, by the 3rd year of the planning period, the local government has not provided committed assistance to all units identified in its housing element program, it must adopt an amended housing element by July 1 of the 4th year of the planning period.

This bill would extend the date by which a local government providing committed assistance must report to the legislative body and the department to July 1 of the 6th year of the planning period. Likewise, if a local government fails to provide committed assistance for all units identified in its housing element program by the 6th year of the planning period, it has until July 1 of the 7th year to adopt an amended housing element.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 65583.1 of the Government Code is
- 2 amended to read:
- 3 65583.1. (a) For purposes of this section, a city, county, or
- 4 city and county may include weatherization and energy efficiency
- 5 improvements as part of its efforts to substantially rehabilitate a
- 6 unit. This may include energy efficiency measures that encompass
- 7 the building envelope, its heating and cooling systems, and its
- 8 electrical system.

1 (b) The Department of Housing and Community Development,
2 in evaluating a proposed or adopted housing element for substantial
3 compliance with this article, may allow a city or county to identify
4 adequate sites, as required pursuant to Section 65583, by a variety
5 of methods, including, but not limited to, redesignation of property
6 to a more intense land use category and increasing the density
7 allowed within one or more categories. The department may also
8 allow a city or county to identify sites for second units based on
9 the number of second units developed in the prior housing element
10 planning period whether or not the units are permitted by right,
11 the need for these units in the community, the resources or
12 incentives available for their development, and any other relevant
13 factors, as determined by the department. Nothing in this section
14 reduces the responsibility of a city or county to identify, by income
15 category, the total number of sites for residential development as
16 required by this article.

17 (c) Sites that contain permanent housing units located on a
18 military base undergoing closure or conversion as a result of action
19 pursuant to the Defense Authorization Amendments and Base
20 Closure and Realignment Act (Public Law 100-526), the Defense
21 Base Closure and Realignment Act of 1990 (Public Law 101-510),
22 or any subsequent act requiring the closure or conversion of a
23 military base may be identified as an adequate site if the housing
24 element demonstrates that the housing units will be available for
25 occupancy by households within the planning period of the
26 element. No sites containing housing units scheduled or planned
27 for demolition or conversion to nonresidential uses shall qualify
28 as an adequate site.

29 Any city, city and county, or county using this subdivision shall
30 address the progress in meeting this section in the reports provided
31 pursuant to paragraph (1) of subdivision (b) of Section 65400.

32 (d) (1) The Department of Housing and Community
33 Development may allow a city or county to substitute the provision
34 of units for up to 25 percent of the community's obligation to
35 identify adequate sites for any income category in its housing
36 element pursuant to paragraph (1) of subdivision (c) of Section
37 65583 where the community includes in its housing element a
38 program committing the local government to provide units in that
39 income category within the city or county that will be made
40 available through the provision of committed assistance during

1 the planning period covered by the element to low- and very low
2 income households at affordable housing costs or affordable rents,
3 as defined in Sections 50052.5 and 50053 of the Health and Safety
4 Code, and that meet the requirements of paragraph (2). Except as
5 otherwise provided in this subdivision, the community may
6 substitute one dwelling unit for one dwelling unit site in the
7 applicable income category. The program shall do all of the
8 following:

9 (A) Identify the specific, existing sources of committed
10 assistance and dedicate a specific portion of the funds from those
11 sources to the provision of housing pursuant to this subdivision.

12 (B) Indicate the number of units that will be provided to both
13 low- and very low income households and demonstrate that the
14 amount of dedicated funds is sufficient to develop the units at
15 affordable housing costs or affordable rents.

16 (C) Demonstrate that the units meet the requirements of
17 paragraph (2).

18 (2) Only units that comply with subparagraph (A), (B), or (C)
19 qualify for inclusion in the housing element program described in
20 paragraph (1), as follows:

21 (A) Units that are to be substantially rehabilitated with
22 committed assistance from the city or county and constitute a net
23 increase in the community's stock of housing affordable to low-
24 and very low income households. For purposes of this
25 subparagraph, a unit is not eligible to be "substantially
26 rehabilitated" unless all of the following requirements are met:

27 (i) At the time the unit is identified for substantial rehabilitation,
28 (I) the local government has determined that the unit is at imminent
29 risk of loss to the housing stock, (II) the local government has
30 committed to provide relocation assistance pursuant to Chapter 16
31 (commencing with Section 7260) of Division 7 of Title 1 to any
32 occupants temporarily or permanently displaced by the
33 rehabilitation or code enforcement activity, or the relocation is
34 otherwise provided prior to displacement either as a condition of
35 receivership, or provided by the property owner or the local
36 government pursuant to Article 2.5 (commencing with Section
37 17975) of Chapter 5 of Part 1.5 of Division 13 of the Health and
38 Safety Code, or as otherwise provided by local ordinance; provided
39 the assistance includes not less than the equivalent of four months'
40 rent and moving expenses and comparable replacement housing

1 consistent with the moving expenses and comparable replacement
2 housing required pursuant to Section 7260, (III) the local
3 government requires that any displaced occupants will have the
4 right to reoccupy the rehabilitated units, and (IV) the unit has been
5 found by the local government or a court to be unfit for human
6 habitation due to the existence of at least four violations of the
7 conditions listed in subdivisions (a) to (g), inclusive, of Section
8 17995.3 of the Health and Safety Code.

9 (ii) The rehabilitated unit will have long-term affordability
10 covenants and restrictions that require the unit to be available to,
11 and occupied by, persons or families of low- or very low income
12 at affordable housing costs for at least 20 years or the time period
13 required by any applicable federal or state law or regulation.

14 (iii) Prior to initial occupancy after rehabilitation, the local code
15 enforcement agency shall issue a certificate of occupancy indicating
16 compliance with all applicable state and local building code and
17 health and safety code requirements.

18 (B) Units that are located in a multifamily rental housing
19 complex of four or more units, are converted with committed
20 assistance from the city or county from nonaffordable to affordable
21 by acquisition of the unit or the purchase of affordability covenants
22 and restrictions for the unit, are not acquired by eminent domain,
23 and constitute a net increase in the community's stock of housing
24 affordable to low- and very low income households. For purposes
25 of this subparagraph, a unit is not converted by acquisition or the
26 purchase of affordability covenants unless all of the following
27 occur:

28 (i) The unit is made available at a cost affordable to low- or
29 very low income households.

30 (ii) At the time the unit is identified for acquisition, the unit is
31 not available at an affordable housing cost to either of the
32 following:

33 (I) Low-income households, if the unit will be made affordable
34 to low-income households.

35 (II) Very low income households, if the unit will be made
36 affordable to very low income households.

37 (iii) At the time the unit is identified for acquisition the unit is
38 not occupied by low- or very low income households or if the
39 acquired unit is occupied, the local government has committed to
40 provide relocation assistance prior to displacement, if any, pursuant

1 to Chapter 16 (commencing with Section 7260) of Division 7 of
2 Title 1 to any occupants displaced by the conversion, or the
3 relocation is otherwise provided prior to displacement; provided
4 the assistance includes not less than the equivalent of four months'
5 rent and moving expenses and comparable replacement housing
6 consistent with the moving expenses and comparable replacement
7 housing required pursuant to Section 7260.

8 (iv) The unit is in decent, safe, and sanitary condition at the
9 time of occupancy.

10 (v) The unit has long-term affordability covenants and
11 restrictions that require the unit to be affordable to persons of low-
12 or very low income for not less than 55 years.

13 (C) Units that will be preserved at affordable housing costs to
14 persons or families of low- or very low incomes with committed
15 assistance from the city or county by acquisition of the unit or the
16 purchase of affordability covenants for the unit. For purposes of
17 this subparagraph, a unit shall not be deemed preserved unless all
18 of the following occur:

19 (i) The unit has long-term affordability covenants and
20 restrictions that require the unit to be affordable to and reserved
21 for occupancy by persons of the same or lower income group as
22 the current occupants for a period of at least 40 years.

23 (ii) The unit is within an "assisted housing development," as
24 defined in paragraph (3) of subdivision (a) of Section 65863.10.

25 (iii) The city or county finds, after a public hearing, that the unit
26 is eligible, and is reasonably expected, to change from housing
27 affordable to low- and very low income households to any other
28 use during the next five years due to termination of subsidy
29 contracts, mortgage prepayment, or expiration of restrictions on
30 use.

31 (iv) The unit is in decent, safe, and sanitary condition at the
32 time of occupancy.

33 (v) At the time the unit is identified for preservation it is
34 available at affordable cost to persons or families of low- or very
35 low income.

36 (3) This subdivision does not apply to any city or county that,
37 during the current or immediately prior planning period, as defined
38 by Section 65588, has not met any of its share of the regional need
39 for affordable housing, as defined in Section 65584, for low- and
40 very low income households. A city or county shall document for

1 any housing unit that a building permit has been issued and all
2 development and permit fees have been paid or the unit is eligible
3 to be lawfully occupied.

4 (4) For purposes of this subdivision, “committed assistance”
5 means that the city or county enters into a legally enforceable
6 agreement during the *first five years of the housing element*
7 planning period that obligates sufficient available funds to provide
8 the assistance necessary to make the identified units affordable
9 and that requires that the units be made available for occupancy
10 within two years of the execution of the agreement. “Committed
11 assistance” does not include tenant-based rental assistance.

12 (5) For purposes of this subdivision, “net increase” includes
13 only housing units provided committed assistance pursuant to
14 subparagraph (A) or (B) of paragraph (2) in the current planning
15 period, as defined in Section 65588, that were not provided
16 committed assistance in the immediately prior planning period.

17 (6) For purposes of this subdivision, “the time the unit is
18 identified” means the earliest time when any city or county agent,
19 acting on behalf of a public entity, ~~has proposed in writing or~~ has
20 proposed orally or in writing to the property owner, that the unit
21 be considered for substantial rehabilitation, acquisition, or
22 preservation.

23 (7) On July 1 of the ~~third~~ *sixth* year of the planning period, as
24 defined by Section 65588, in the report required pursuant to Section
25 65400, each city or county that has included in its housing element
26 a program to provide units pursuant to subparagraph (A), (B), or
27 (C) of paragraph (2) shall report in writing to the legislative body,
28 and to the department within 30 days of making its report to the
29 legislative body, on its progress in providing units pursuant to this
30 subdivision. The report shall identify the specific units for which
31 committed assistance has been provided or that have been made
32 available to low- and very low income households, and it shall
33 adequately document how each unit complies with this subdivision.
34 If, by July 1 of the ~~third~~ *sixth* year of the planning period, the city
35 or county has not entered into an enforceable agreement of
36 committed assistance for all units specified in the programs adopted
37 pursuant to subparagraph (A), (B), or (C) of paragraph (2), the city
38 or county shall, not later than July 1 of the ~~fourth~~ *seventh* year of
39 the planning period, adopt an amended housing element in
40 accordance with Section 65585, identifying additional adequate

1 sites pursuant to paragraph (1) of subdivision (c) of Section 65583
2 sufficient to accommodate the number of units for which
3 committed assistance was not provided. If a city or county does
4 not amend its housing element to identify adequate sites to address
5 any shortfall, or fails to complete the rehabilitation, acquisition,
6 purchase of affordability covenants, or the preservation of any
7 housing unit within two years after committed assistance was
8 provided to that unit, it shall be prohibited from identifying units
9 pursuant to subparagraph (A), (B), or (C) of paragraph (2) in the
10 housing element that it adopts for the next planning period, as
11 defined in Section 65588, above the number of units actually
12 provided or preserved due to committed assistance.